

Substantial Compliance FAQ's

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1. What is substantial implementation?

The standard of “substantial implementation” is satisfied if a jurisdiction carries out the requirements of SORNA as interpreted and explained in the Final Guidelines. SORNA provides a floor, not a ceiling, for sex offender notification and registration programs. Jurisdictions are free to exceed the minimum standards of SORNA, but a jurisdiction may not fall below the requirements of SORNA. Jurisdictions are free to implement SORNA in any manner that meets the minimum requirements.

See Part II.B and E of the Final Guidelines for more detail.

2. When is the deadline for substantial implementation?

The deadline for substantial implementation is July 27, 2009. The SMART Office requests that submissions establishing compliance with the SORNA requirements or requests for extensions be received by the SMART Office by April 27, 2009. If a jurisdiction is requesting an extension, the submission to the SMART Office should include a description of the jurisdiction’s implementation efforts, and an explanation as to why an extension is needed. Up to two 1-year extensions may be allowed. Jurisdictions submitting submissions for substantial compliance may in tandem submit a request for a time extension.

See Part II.E of the Final Guidelines for more detail.

3. What are the consequences for jurisdictions that fail to substantially implement SORNA by July 27, 2009?

States, tribes, and territories that fail to substantially implement SORNA by July 27, 2009 (and have not been granted a time extension) are subject to a 10% reduction in funding under 42 U.S.C. §3750 et seq. (“Byrne Justice Assistance Grant” funding).

The additional consequences for Indian Tribes that fail to substantially implement SORNA by July 27, 2009 are detailed in the Indian Country FAQ’s.

See Parts II.A and II.E of the Final Guidelines for more detail.

4. What do jurisdictions need to do in order to comply with the SORNA tiering system?

The use of the “tier” classifications in SORNA relates to substance, not form or terminology. Thus, to implement the SORNA requirements, jurisdictions do not have to label their sex offenders as “tier I,” “tier II,” and “tier III,” and do not have to adopt any other particular approach to labeling or categorization of sex offenders. Rather, the SORNA requirements are met as long as sex offenders who satisfy the SORNA criteria for placement in a particular tier are consistently subject to at least the same minimum duration of registration, frequency of in-person appearances for verification, and extent of website disclosure that SORNA requires for that tier.

Tier I: Predicate offenses include whatever offenses do not support a higher classification, such as misdemeanor registration offenses and child pornography possession.

Tier II: Predicate offenses include most felonious sexual abuse or sexual exploitation crimes involving victims who are minors, including distribution and production of child pornography.

Tier III: Predicate offenses generally encompass sexual assaults involving sexual acts regardless of victim age, sexual contact offenses against children below the age of 13, nonparental kidnapping of minors, and attempts or conspiracies to commit such offenses.

See Part V of the Final Guidelines for more detail.